



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding VICTORIA COOL AID SOCIETY  
and [tenant name suppressed to protect privacy]

## **Decision**

### **Dispute Codes:**

OPC

### **Introduction**

This Dispute Resolution hearing was convened to deal with an Application by the landlord seeking an Order of Possession based on a One-Month Notice to End Tenancy for Cause.

The landlord appeared but the tenants did not.

### **Preliminary Matter**

The landlord testified that, after the Application for Dispute Resolution was made, the hearing package, including the Notice of Hearing, was served on the tenant in person by an agent of the landlord.

The landlord acknowledged that the person who had served the hearing package was not able to attend the hearing to confirm exactly when the package was served.

Section 59 of the Act states that an application for dispute resolution must be in the approved form, include full particulars of the dispute that are the subject of the dispute resolution proceedings. A person who makes an application for dispute resolution must give a copy of the application to the other party within 3 days of making it.

Sections 88 and 89 of the Act determine the method of service for documents. The Act requires that a Notice of Hearing and copy of the application and evidence must be served to the respondent as set out under Section 89(1). This requires service in one of the following ways: (*My emphasis*)

(a) **by leaving a copy with the person, (personal service); (*My emphasis*)**

(b) if the person is a landlord, by leaving a copy with an agent of the landlord;

(c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;

(d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;

(e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

In this case the landlord testified that an individual, acting on behalf of the landlord, had served the Notice of Hearing documents to the respondent "in person".

I find that, although the landlord who attended the hearing testified that, to the best of her knowledge, the hearing package was properly served to each of the respondents in person, the landlord did not actually witness this service.

In the absence of direct testimony from the person who had actually served the documents, or a person who personally witnessed the serving of the documents, I find insufficient proof was provided to confirm that the tenant was served with the Notice of Hearing.

Having found that the landlord failed to prove adequate service of the Notice of Hearing and Application for Dispute Resolution in compliance with the Act, I therefore find that the application must be dismissed with leave to reapply.

### **Conclusion**

The landlord's application cannot proceed due to inadequate proof of valid service of the hearing package to the respondent and is dismissed with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: September 09, 2013

---

Residential Tenancy Branch

